

the October decision has generated more debate than results. The latter part of 1992 should determine whether the concepts have "legs", as the jargon puts it.

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Notes

1. This issue is canvassed in Pusey, M. (1991), *Economic Rationalism in Canberra*, Cambridge University Press, Australia. His critique on the link between selectivity in recruitment and career policy is controversial but, if accepted, damning.

2. See, for example, OECD, 'Recent Trends in Performance Appraisal and Performance-Related Pay Schemes in the Public Service', *Public Management Studies*, Paris, 1988./

Universities and enterprise bargaining

Laura Bennett and Michael Quinlan

Griffith University

In mid 1991 the *The Australian's* Higher Education Supplement reported the Opposition spokesman on education, Dr David Kemp, "as stating that the Opposition was committed to 'restoring the freedom universities need to manage their staff'" (*The Australian*, 10/7/ 1991, 11). This 'freedom' was to be based on voluntary agreements and the principles of enterprise bargaining. The comment by Dr Kemp highlights the values which are central to the conservative industrial relations policy. These are not essentially about restoring some mythical freedom of choice for workers and employers but rather about entrenching an unfettered managerial prerogative, restoring management's 'right' to manage. Such policies seek to reverse the historical trend of the last 100 years which has seen the progressive establishment of industrial legislation designed to limit managerial prerogative. The new conservative offensive, however, goes beyond merely seeking to repeal the fetters of existing legislation. It also seeks to confer further powers on employers and to deunionise the workforce through the promotion of 'voluntary agreements'. As Dr Kemp's remarks make clear, academics will be subject to the general principles of the Opposition's industrial relations policy.

In recent years a shift to enterprise bargaining has also been promoted by the federal Labor Government and the ACTU. However, the notion of enterprise bargaining used by the ACTU differs significantly from that advanced by the Coalition. Both the federal government and the ACTU see enterprise bargaining as occurring within the existing legal framework for regulating industrial relations. A shift to enterprise bargaining in the universities under existing laws would not have the same implications for academics as that proposed under the Coalition. This is not to say that there will be no significant changes in the employment conditions for academics under the former.

In this paper we explore the implications of enterprise bargaining for academic staff and academic unionism under the different models of enterprise bargaining advocated by the present government and the federal opposition.

The Conservative Approach: Enterprise bargaining and managerial prerogative, voluntary agreements and enterprise unionism

Under the Coalition's proposed industrial relations policy union recognition or the right to bargain is not guaranteed. This contrasts with the existing legislative framework where union recognition and bargaining (over some issues) is virtually assured. Unions registered under the federal Industrial Relations Act have the right to recruit members from particular occupations or industries in accordance with their registered rules and to bargain on behalf of those workers. Since a determination can be reached via arbitration even if the employer refuses to deal with the union, employers are encouraged to recognise and negotiate with unions (equally employers can take matters to arbitration if a union refused to consider an employer-initiated claim). Disputes may be resolved through direct negotiation between the parties or conciliation, and in practice the vast majority of disputes are resolved without recourse to arbitration. The awards, agreements or determinations that result cover both union and non union members of the employers concerned.

The speeches of the Shadow Minister for Industrial Relations, John Howard, however, clearly enunciate a vision of enterprise

bargaining where employees will be encouraged/forced to by-pass unions and deal directly with their employers. Employees may choose union representation if they wish by nominating either an existing union or one formed by workers at that enterprise as a bargaining agent. It is not clear what, if any, legal recognition such bargaining agents will enjoy or what new rules will regulate such bargaining. These ground-rules are vital. In the United States, for instance, union recognition or rights to bargain and bargaining practices are highly regulated - and in a manner unfavourable to unions. The procedures in the United States have offered little protection to organised workers from 'sham bargaining...changes in employer operation or other forms of management resistance or attack', they have raised the cost of new organisation and, by forcing an enterprise focus on workers, they have rendered wider industrial and political action difficult and ineffective (Rogers 1990:1). In the post-war period union density in the United States has declined from a peak of 25.5% in 1953 to 16.4% in 1989 and the particular form of American labour law (based on enterprise bargaining) is seen as playing a pivotal role in the decline of American unionism (Rogers 1990: 54).

If guaranteed recognition was removed in Australia many groups of employees (such as those in small business, retailing, tourism and other service industries) would find it very difficult to secure union recognition or would be obliged to accept the union the employer finds most acceptable. Where this is the case one may question how bargaining is to occur on an equitable basis. An employee without union representation is unlikely to risk confrontation with an employer if they fear losing their job or damaging their prospects of promotion. Equally, as the Japanese experience shows (see Chalmers, 1989: 173-196) the enterprise-specific unions which most employers might favour are (by definition) often small and lack the resources or logistical strength to bargain effectively on behalf of their members. Further, in contrast to industry or occupation-wide awards (and more specific enterprise agreements generally consistent with these in terms of wage rates, hours etc) that exist at present, the Coalition's reforms are likely to lead to a fragmented system entailing a multitude of workplace or enterprise agreements whose enforcement would be problematic to say the least.¹ If the experience of New Zealand (where similar laws have been introduced) is any guide, for many workers these agreements will involve a significant deterioration of wages and working conditions (see for example Casey, 1992: 9-10; Ryall, 1991: 7 and Wilson 1991:268-275).

University academics, and some groups in particular, will not be exempt from these processes. In all but the most strongly organised workplaces union recognition will depend critically on the attitude of employers. While individual universities may be unlikely to refuse to recognise existing unions altogether some may push for the creation of an enterprise specific union with no affiliation to FAUSA/UACA, as has already occurred at Bond University (see below). Alternatively, some may place pressure on an existing staff association to either distance itself or sever its links with FAUSA/UACA. An even more likely scenario is that AHEIA or individual Vice-Chancellors will, while recognising existing unions, simply declare that certain issues are only to be negotiated at institutional level (AHEIA has already done this in relation to the nomenclature of academic positions) and that some issues (like loadings, confirmation and promotion grievances) are not open to union representation or bargaining at any level.

The prospects of the last option are all too real. For example, the Vice Chancellor of the University of Melbourne and former head of AHEIA, Professor David Penington, has already made it abundantly clear that universities should use enterprise bargaining to - in his words - become masters of their own destiny (*The Australian* 2 October 1991). The achievement of this mastery is seen to rest on resisting the control (most academics will be amazed at the influence which unbeknown to them their staff associations possess!) of unions and government. Penington makes a clear appeal to managerial prerogative by suggesting that unions should restrict their activities to legitimate industrial matters (ie those matters the employer wishes to negotiate on). Further, he makes an equally menacing suggestion that where academic staff engage in industrial action they are renouncing their right to involvement in joint decision-making (*Australian Financial Review*, 1 October 1991). Academics are thus given an impossible (and false choice) since the shift to corporate and hierarchical university management has been the driving force behind the existing demise in collegial forms of decision-making rather than union claims (as Professor Penington suggests). Most staff association officials could also readily attest to instances where the new corporate style of university management has led to disputes and grievances.

Even if not all Vice Chancellors agree with Professor Penington's philosophy there can be little doubt that under the Coalition's legal framework for enterprise bargaining, union recognition and bargaining rights will be restricted. With variations in management attitudes and fewer uniform criteria, protracted disputes over contentious matters such as staff appraisal are likely to become more common. Unlike the past there will be no reference to a third party to resolve such impasses. The only other option open to an academic union placed in this position would be direct pressure on the university or AHEIA to change its views. In the past, academics have shown a reluctance to resort to the types of collective industrial action likely to bring about such change. Further, the capacity to undertake such action may be weakened by the very changes in union recognition just alluded to.

Even where bargaining does occur the outcomes may be far from favourable for many, if not most, academics. Given the current state of the Australian university system it is difficult to make firm pronouncements. At the present time all universities are experiencing severe financial constraints as a result of rapid increases in enrolments (with declining per capita student funding levels) and the direct and indirect costs associated with institutional amalgamations. The pre-Dawkins universities have also suffered from a reallocation of funding to the former college sector. These funding constraints have placed pressure on universities to cut costs and to extract greater teaching and research output from academics. Further, as just noted, the shift to a more corporate, rather than collegial, approach to university management is also affecting employment relations for academics.

A shift to enterprise bargaining under the Coalition's legislative framework would be likely to telescope changes to employment conditions associated with these trends. Pressures to contain costs, while also attracting/retaining a pool of experienced high profile academics in key areas, has already led to attempts to enhance monetary and other rewards to senior academics in high demand areas while simultaneously seeking to cut costs/increase workloads in relation to junior academics or those in areas labelled of less significance (such as the humanities and some - though not all - social sciences). Free from some of the constraints imposed by the existing national award, Vice-Chancellors of individual universities will be able to pursue this object more explicitly by implementing different salary levels for different disciplines, widening intra-occupational differentials and setting different teaching/research arrangements for various disciplines in a far more direct and formalised fashion than is possible at present. Disparities may be further entrenched if particular campuses, divisions or faculties are designated as separate bargaining units rather than the university as a whole. Such an idea

has already been floated by Professor David Penington (see *Journal of Higher Education* 14/5&6:3). The experience in graduate schools of management of some universities already indicate what we might expect in better endowed units (including rewards which are not essentially decided by academic merit). In less well endowed divisions, campuses etc the dean or other senior administrators may have to decide how to spread inadequate funds most effectively. Again an incentive to save money by exploiting some staff, especially at the junior level, both directly through salary cuts and indirectly through workload increases or the excessive use of fractional and casual appointments poses an ever present risk to employment conditions and academic standards.

In short, enterprise bargaining is likely to be associated with more discriminatory/differentiated/inequitable sets of employment conditions within universities. These changes will have a particularly negative effect on women who tend to be concentrated in 'unfashionable' disciplines and at the lower end of the career structure. Further, interpersonal relations between academics, the quality of the education they provide, and the quality of the research they undertake will not remain immune from such changes. Discriminatory employment contracts (at worst decided on an individual basis) are likely to effect morale and interfere with the collaboration often essential for university teaching and research. There is a risk of increasing task differentiation and a consequent decline in the notion of the multi-skilled academic able to undertake teaching and research. Although the existence of a symbiotic relationship between teaching and research has been roundly denied by former senior government advisers such as Don Aitkin (1990:8-13) - now Vice-Chancellor of that self-avowed university of teaching excellence (only?) the University of Canberra - such assertions overlook that researchers provide much of the teaching materials for universities. We are also yet to see conclusive evidence that research schools or key centres for research and teaching actually outproduce (in both quantity and quality terms) their colleagues in teaching and research based departments.

Of course the effects are unlikely to be identical throughout the university system given differential access of universities to various forms of private funding and the attempts of some universities to maintain or enhance their reputations as pre-eminent learning and research institutions. Indeed, differences in access to funding are likely to be exacerbated if the Coalition fulfils its commitment to introduce a student voucher system of funding (favouring those institutions receiving strongest student preferences). The Australian Vice-Chancellors' Committee (AVCC) has already made public its concerns about the adverse implications of the voucher system for specialised courses, diversity of offerings, the creation of mega universities and an associated decline in the quality (measured in research, teaching, staff and student terms) of smaller universities (*Australian Financial Review*, 8 October 1991:37). Until now, differences in status have not been formally recognised in terms of wages and other conditions of employment. However, enterprise bargaining would provide a vehicle for introducing inter-institutional differences in remuneration and employment conditions. Indeed, looking at the US experience, it would be difficult to see how the emergence of such differences could be prevented once enterprise bargaining was introduced unless AHEIA chose to try and maintain uniform salary levels etc.

Universities which enjoy high levels of private funding (via private endowments as well as grants and bequests from industry and professional bodies), such as the University of Melbourne, University of Western Australia and the University of Sydney, could seek to reinforce their pre-eminent status by paying higher salary levels in a labour market where experienced and highly qualified academics are already in short supply and more profound shortages loom in the future (see *The Australian* 21 August 1991). The aim would be to poach the best from other institutions (a process which is already apparent) using various incentives. The effect would be compounded if these universities used the voucher system to

expand student and staff numbers at the expense of other institutions.² Less well-endowed institutions would be relegated to choosing between two options, each with unpalatable implications for much of their staff. On the one hand, these universities may resign themselves to losing their more ambitious and successful staff and accepting a predominantly teaching role. For some universities this would mean a diminution of their existing status while for others, notably newly upgraded/retitled CAEs and Institutes, it would mean accepting that their role remains rough the same despite the change of nomenclature. In the end, as in the US, generally lower salaries will both reflect and reinforce the lower status of these universities. On the other hand, less richly endowed institutions may seek to retain or enhance their status (at least in part) through a highly selective and discriminatory allocation of resources. Thus they will try to attract/retain some high calibre staff by offering superior employment conditions financed in part by imposing inferior conditions (in terms of salary, teaching loads and facilities) on the bulk of their academic employees.

A combination of the above scenarios is most likely. That is, we will witness the emergence of differentiated sets of employment conditions for academics both between and within individual universities. This change will not occur overnight. However, the pressures that will impel it, and some shifts towards it, are already evident. In the end, the most likely result is a combination of inter- and intra-university differentials in employment conditions for academics. Once established these differences will affect patterns of inter university job changes amongst academics (and further entrench an institutional hierarchy in terms of student preferences) reinforcing inequalities between universities both in terms of status and employment conditions. The biggest losers are likely to be academics in newer and provincial universities and those without a strong recognised research base. However, even many academics in the first 11 (or 15 or whatever) universities may suffer a diminution of conditions if they work in areas seen to be of lesser significance or if as junior staff they are required to take up a greater teaching burden (with less security) in order to help finance more important areas.

The payment of loadings, bonuses through agreed consulting income, and other special benefits especially within the management and medical schools of existing universities indicates that many universities have already embraced differential employment practices. Bond University provides the only extant Australian instance of enterprise bargaining within a university. The staff association at the university is not registered under the federal Industrial Relations Act (the university vigorously resisted the establishment of a FAUSA branch) and the staff are employed under individual contracts only (ie there is no award or collective agreement). Bond is a suggestive example of what to expect from enterprise bargaining and illustrates how the initial promises used to entice staff into voluntary agreements can in fact open the door to marked departures from existing standards. Bond initially offered very high salaries and excellent conditions at least to its senior staff but, as its economic position deteriorated, academics in its science faculty had to seek employment elsewhere and there were allegations in the *Higher Education Supplement (HES)* that academics were being forced to teach in areas outside of their competence.³ Bond also highlights the difficulty, if not impossibility, of protecting tenure under a system of enterprise bargaining. In the absence of a (highly unlikely) system of legislative guarantees tenure would have to be negotiated at the enterprise level.

The Conservative solution would have significant implications for the pattern of unionisation within tertiary education. Academic unions have relied heavily on the legal recognition procedures of the current Act to establish their position vis-a-vis university administrations, governments and, indeed, academic staff themselves. Their strategies are centrally driven and legalistic rather than industrially based. In short both union structure and strategy is heavily dependent on the processes and protections provided by the

current industrial relations system.

Enterprise bargaining under the present legal/industrial framework

In the last National Wage Case, the Industrial Relations Commission (the IRC) introduced its own version of enterprise bargaining. This involves bargaining at the level either of the enterprise or a section therein. Agreements flowing from such bargaining may operate in conjunction with, or replace awards and must not involve a reduction in ordinary-time earnings or depart from Commission standards on hours of work, annual leave with pay or long service leave with pay. Wage increases must be justified by productivity gains in accord with Commission principles (structural efficiency) and such agreements must be approved by the Commission (See National Wage Case 1991). Many believe that this decision is the first step towards a more comprehensive and decentralised system of enterprise bargaining under the auspices of the Industrial Relations Commission. In part, this move reflects the ACTU's attempt to meet the conservative challenge outlined above by seeking to institutionalise its own version of 'enterprise bargaining'. This version preserves the existing legislative and union framework but seeks to give unions a greater workplace focus. By encouraging greater workplace negotiations and bargaining the ACTU hopes to strengthen its traditional base and win back some of the support lost through the years of the Accord.

This type of enterprise bargaining is likely to produce some of the same effects as that favoured by the Coalition, although such changes would be far more profound and rapid under the Coalition model. Any form of enterprise bargaining is likely to encourage the further corporatisation of university management, the breakdown of collegial patterns of decision-making and the development of a far more complex and fragmented pattern of employment conditions at both the inter- and intra-university level. Neither unions nor university management have the professional resources and experience to deal with more localised negotiations. In fact the lack of a bargaining infrastructure and weak organisation at Branch level are amongst the most serious problems currently confronting academic unionism. The move to enterprise bargaining by the IRC thus has significant negative implications for the tertiary sector particularly if no moves are made to deal with the lack of the necessary organisation at Branch level. This is particularly the case if further moves to more sustained enterprise bargaining are made in 1992. Universities simply lack the infrastructure necessary for bargaining at the enterprise level. Union activity and resources have been concentrated at the national level revolving first around the Academic Salaries Tribunal and then around the Industrial Relations Commission. Universities lack the network of union committees, delegates and regular union/management meetings characteristic of unions with effective workplace representation. Some universities have extremely low rates of unionisation and even those with relatively high rates lack the structures characteristic of unions with a strong workplace presence. Unlike FAUSA (with its national level and local university branches) union organisation in the former college sector was largely concentrated at the state and federal levels. Organisation at the institutional level (the equivalent of FAUSA branches) was in at least some instances quite rudimentary. Without adequate branch structures the devolution of bargaining to the workplace is unlikely to produce much in the way of advantages for academics.

Nor is there any easy way of remedying such deficiencies. Attempts to set up strong workplace structures face the difficulty that even within FAUSA many branches are relatively starved of funds and other resources. The necessary time for planning and implementation is lacking since the duties of Branch officials, particularly the crucial positions of Branch President and Secretary, are added to a full academic workload. The exigencies of face to face bargaining with university administrations also requires a degree of standing in the local academic community which makes recruitment to such positions particularly difficult.

The move to enterprise bargaining has some potential benefits for academics if these infrastructural problems can be overcome. Although award coverage provides basic protection in a number of areas such as salary rates and career structure it fails to cover many important working conditions. These are locally determined and play an essential role in determining the quality of working life. They include health and safety, staff teaching and administration loads, parking and access to childcare. Increased union activity at the local level over such issues holds some very significant advantages for staff and, it should be said, for university administrations. At a time when administrators face additional pressure to deal with the outcome of amalgamations, greater responsibility for fund raising, as well as new federal requirements, the presence of a channel which allows staff to directly communicate collective grievances to the administration should be obvious. Attention to the conditions of staff is surely preferable to time-consuming 'fire-fighting' or the loss of highly qualified or promising academics in a period of increasing staff shortages.

The survival of national unionism is likely to depend on the present unions' ability to convince academics that they can make a significant contribution to the quality of academic working life. Award campaigns and government lobbying although time-consuming and expensive are, unfortunately, probably not sufficient. Unions need to show that they can make a significant contribution to the improvement of day to day working conditions through local action. The building of such locally based structures, within a broader structure of a nationally organised union, provides not only the best way of making gains out of the present push to union-based enterprise bargaining but also one of the most effective ways of building the commitment and the structures necessary for effective unionism under a conservative regime.

Conclusion

There are good reasons to believe that under the legal and funding framework proposed by the federal Coalition the majority of academics would suffer a diminution of employment conditions, including job security. At present academics and their unions lack the industrial organisation and muscle to survive in an industrial relations environment where such strength (and its use occasionally) is likely to be essential. The differentiation of conditions both within and between institutions is likely to create morale problems amongst those who believe the value of their work has been denied. Under the Coalition's proposals, the massive effort and resources that FAUSA and UACA have put into amalgamation could be rendered meaningless almost overnight, as the recognition of unions and the prescription of recognised bargaining agents occurs in a context largely determined by AHEIA and individual university Vice-Chancellors. Differentiation of employment conditions will undermine the interest of some in joining unions (see the existing situation with regard to membership in schools of medicine) and make the task of unions more difficult as they attempt to reconcile divergent interests. In the end fragmentation of union representation is likely to have adverse employment effects for most academics. Further, quite apart from the effective undermining of union representation, a more deregulated academic labour market and university system (via the voucher scheme of funding) is likely to undermine the quality of academic staff and the education they provide. Funding shortages in areas of lower student demand or low government priority, or at less prestigious institutions or provincial institutions, will affect not only the provision of courses but also the standards of such courses and the quality of academics who teach them. Such concerns have already been raised in New Zealand where legislation similar to that proposed by the Coalition is in operation (*The Australian* 11 September 1991:22).

Of greater long term concern is the problem of a more fragmented system of conditions and rewards. Differences in reward levels for academics in different disciplines or in the same discipline at different universities (and even with comparable levels of qualifica-

tions, experience and publications) are likely to create morale problems especially given that, apart from the now defunct binary divide, the bulk of present academics were employed (or chose their preferred university) in the context of very different employment criteria. This is unlike the USA where overt and formal ranking in terms of institution status, role and employment conditions has long been entrenched and where a shift in institution is less likely to mean a major geographic shift (with associated difficulties for employed spouses and families) than is the case in Australia. Indeed, the differentiation likely to flow from enterprise bargaining (especially under the Coalition model) could make a mockery of the abolition of the binary divide by simply providing a new set of inevitably inequitable distinctions to replace the old one.

Many academics and the administrators of upgraded CAEs and institutes saw the breakdown of the binary divide as a chance to put a greater emphasis on research and the employment of multi-skilled academics. These changes raised issues of minimum professional standards and accreditation which FAUSA and UACA have not confronted despite their impending amalgamation. Indeed, in contrast to teachers unions (and despite recommendations that it should do this almost 10 years ago) FAUSA has failed to link wages and other conditions of employment with professional qualifications/standards and the quality of education (including class sizes). Industrial campaigns based on these linkages have been especially effective and there is no reason to believe that a similar campaign in the tertiary education sector would not have enjoyed similar results (especially given the looming major shortage of university academics). Yet, what we have seen in practice is a decline in both salaries (notwithstanding recent gains) and employment conditions, heavier workloads and major morale problems in universities (see the survey results published in *The Australian*, 3 July 1991:11-13). There has also been clear evidence of branch dissatisfaction with FAUSA's rather centralised handling of these issues and its apparent preoccupation with the UACA amalgamation. Another worrying and not unrelated sign is the decline in the rate of union membership in at least some branches. The lack of a comprehensive industrial strategy by FAUSA and neglect of branch organisation means that academic unions are in a poor position to meet the very real threats associated with a shift to enterprise bargaining. What is at stake here is not simply basic employment conditions of university academics (such as salary levels) but the range of tasks they will be expected/permitted to undertake (such as administrative responsibilities and research), the resourcing of such activities, and the quality of the education they will be able to deliver. Finally, although academics in some institutions will bear the brunt of these changes even academics in the most well-endowed universities are unlikely to remain immune from these effects. Even if the latter institutions resist inter-disciplinary differentials (and this is questionable) it is unlikely that large multi-campus institutions (as is the norm even amongst our oldest universities) will retain essentially identical conditions across all locations.

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Notes.

¹ There is as yet no indication from the Coalition as to how contracts are to be enforced. Although the Industrial Relations Commission might be retained for this purpose a more likely scenario is that the recovery of unpaid/underpaid wages and other monetary benefits will have to be pursued by the individual worker/s concerned (perhaps with the help of their union) before a common law court - a process which history and even current experience indicates is by no means rapid or simple. Further, it should not be assumed that underpayment etc is confined to industries like clothing manufacturing, contract cleaning and tourism and is unlikely to arise in universities. Such problems are already common in service industries marked by large and professional employers (such as banking and finance) and the shift to a more fragmented and complex wages system associated with enterprise bargaining will make such problems more likely within universities.

² This strategy would also have undesirable effects in terms of the usage of existing university infrastructure. In the short term at least, the physical and other infrastructure of the most student-preferred desired universities could become even more overloaded than they are at present while infrastructure of other institutions suffers from under-utilization.

³ The placing of academics on individual contracts the details of which are then deemed a confidential matter between the individual and the university (the hallmark of the conservative model voluntary employment agreements) rather than a public document (like existing awards and industrial agreements made before arbitral tribunals) poses major logistical problems to unions in terms of discovering general wage rates etc as a basis for making comparisons and claims.